

FILED 06 JUL 17 2006 USDC ORP

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

PATRICIA BRIZZEE,

No. CV04-1566-ST

Plaintiff,

ORDER ADOPTING MAGISTRATE
JUDGE'S FINDINGS AND
RECOMMENDATION

v.

FRED MEYER STORES, INC.,

Defendant.

MOSMAN, J.,

On January 31, 2006, Magistrate Judge Stewart issued Findings and Recommendation ("F&R") (docket #56) in the above-captioned case recommending that defendant's motion for summary judgment (#32) be denied as to the First Claim alleging a violation of FMLA and otherwise granted. Fred Meyer Stores filed objections (#61) to the F&R on February 28, 2006. Ms. Brizzee filed objections (#62) to the F&R on March 1, 2006. Each side responded to the other side's objections, and this case was taken under advisement on April 28, 2006.

In conducting my review of the F&R, I apply the following standard. The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is required to make a *de novo* determination of those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions

of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, the court is free to accept, reject, or modify any of the magistrate judge's F&R. 28 U.S.C. § 636(b)(1)(C).

After reviewing the F&R, objections, and relevant pleadings, the F&R is ADOPTED without modification.

IT IS SO ORDERED.

DATED this 17 day of July, 2006.



MICHAEL W. MOSMAN
United States District Court